



LEGAL UPDATES

FTC Priorities Remain Uncertain

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What Is Happening at the FTC

On March 18, the Trump administration fired two Democratic appointed Federal Trade Commission (FTC) commissioners, Rebecca Kelly Slaughter and Alvaro Bedoya, leaving the FTC with only two commissioners, Melissa Holyoak and Chairman Andrew Ferguson, following the resignation of former Chair Lina Khan. A third commissioner, Trump nominee Mark Meador, was confirmed on April 10, 2025.

The FTC typically has five commissioners who are nominated by the president and confirmed by the Senate, no more than three of whom can be from the same political party. The confirmation of Mark Meador gives the FTC a 3-0 Republican majority.

Why This Matters

The FTC has broad authority to enforce consumer protection and civil antitrust laws, primarily through the FTC Act and the Clayton Act, and to use its investigatory power to do so. The FTC also promulgates rules and regulations, and covers most areas of commerce, including advertising and marketing, telemarketing, franchising, privacy and security, identity theft, artificial intelligence and credit reporting, among others.

On March 27, the ousted Democratic commissioners filed a lawsuit challenging their termination. Under the FTC Act, a commissioner can only be removed by the president for inefficiency, neglect of duty or malfeasance in office. A case decided unanimously by the Supreme Court in 1935, *Humphrey's Executor v. United States* (1935), upheld the FTC Act's limit on the president's ability to remove FTC commissioners, and held that an FTC commissioner could only be fired for cause. The Trump administration did not claim to have cause for firing the two democratic commissioners (one of whom, Commissioner Slaughter, was initially appointed by President Trump in 2018 and reappointed for a second term by President Biden in 2023). Instead, the Trump administration stated that their continued service would be inconsistent with the administration's priorities.

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It is not unheard of for the FTC to have fewer than five commissioners. The FTC has also had commissioners from only one political party before, and the FTC has taken actions during those periods – FTC’s Rules of Practice provide that a “majority of the members of the Commission in office and not recused from participating in the matter” will constitute a quorum. However, the current situation is unique because Commissioners Slaughter and Bedoya are challenging their removal. Any action approved by a 2-1 majority of the Republican commissioners, for example, could be questioned until the fate of the Democratic commissioners is resolved because the agency may be required to review any votes that occurred in Slaughter’s and Bedoya’s absence if they are reinstated.

Even before the firing of Slaughter and Bedoya, there were questions regarding how the new Republican majority would impact the agency’s enforcement priorities, but the uncertainty surrounding the status of commissioners will intensify attention to the agency in the near future.

Other Related Executive Action

On the regulatory side, on April 9, President Trump issued an Executive Order on “Reducing Anti-Competitive Regulatory Barriers,” which directed agency heads, in consultation with FTC Chairman Ferguson and Attorney General Pamela Bondi, to “complete a review of all regulations subject to their rulemaking authority and identify those that” limit competition in a number of different ways enumerated in the Executive Order.

Specifically, agency heads must identify those regulations that:

- create or facilitate monopolies,
- create unnecessary barriers to entry for new market participants,
- limit competition between competing entities,
- create or facilitate licensure or accreditation requirements that unduly limit competition,
- burden the agency’s procurement process, thereby limiting competition, or
- otherwise impose anticompetitive restraints on the free market.

Upon receipt of the lists received from agency heads, the FTC chairman will work with the Office of Management and Budget (OMB) director to determine what modifications to make to the regulations identified. In addition, in response to the Executive Order the FTC launched a public inquiry, seeking input from members of the public on how federal regulations can harm competition in the American economy. Comments are due to [regulations.gov](https://www.regulations.gov) no later than May 27, 2025.

If you have questions about how these executive actions may impact your business, please contact [Richard Landon](#) or [Maisa Frank](#), or your regular Lathrop GPM attorney.